

DOMENICO MATTOZZI et al.

v.

CITY OF PORTLAND

Submitted on Briefs December 20, 2006
Decided January 4, 2007

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,
and LEVY, JJ.

MEMORANDUM OF DECISION

Domenico and Bonnie Mattozzi appeal from a judgment of the Superior Court (Cumberland County, *Delahanty, J.*) affirming a decision by the Portland Zoning Board of Appeals denying the Mattozzis' appeal from a decision by the Portland Zoning Administrator. *See* M.R. Civ. P. 80B. Contrary to the Mattozzis' arguments, the basketball court at issue does not constitute a "structure" because it is not constructed of "members" supporting an overall structure. *See* Portland, Me., Code § 14-47 (Dec. 20, 2006). Because we determine that the basketball court is not a structure, we do not reach the Mattozzis' argument that the basketball

court is not exempt from the City's zoning ordinances. *See* Portland, Me., Code § 14-381 (Dec. 20, 2006). Furthermore, because the issue was not preserved, we do not review the Mattozzis' claim that the fence facing Tate Street violates the City's zoning ordinances. *See* Portland, Me., Code §§ 14-426, 434 (Dec. 20, 2006); *Tarason v. Town of S. Berwick*, 2005 ME 30, ¶ 8, 868 A.2d 230, 232; *New England Whitewater Ctr., Inc. v. Dep't of Inland Fisheries & Wildlife*, 550 A.2d 56, 58-60 (Me. 1988).

The entry is:

Judgment affirmed.

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